**REMARKS**

**Claim Objections**

Claims 44 and 54 have been changed in accordance with the examiner's suggestion. Reconsideration of the objections is requested.

**Claim Rejections**

*35 U.S.C. § 112*

The examiner rejected claim 73 under 35 U.S.C. §112 ¶1 as failing to comply with the written description requirement. This rejection is traversed.

Claim 73 is a dependent claim and it recites resuming the use of the content. It is respectfully submitted that the inventor possessed "resuming the use of the content." For example, in an embodiment of the present invention, an interface may recognize when a certain condition that is amenable to the insertion of an advertisement. The advertisement may be *temporarily* substituted for content.[1] The content may be played again when the temporary substitution of the advertisement is over.[2] At the end of the advertisement, the content restarts where it left off.[3] Because the specification supports claim 73, reversal of the rejection is requested.

*35 U.S.C. § 102*

Independent claims 44, 54, and 64 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Zigmond (U.S. 6,698,020). Claim 44, for example, has been amended to recite in response to detecting a change from the one mode of display to another mode of display, displaying one or more selected advertisements for as long as the other mode of display continues, the change from the one mode of display to the other mode of display in response to an action taken by a user of said content receiver.

The following discussion is for exemplary purposes only without limitation. According to an embodiment of the present invention, content may be stored in a cache that is coupled to a receiver. The cached content may be accessed through an interface at any allowed time. In an embodiment, the interface may recognize when a certain condition that is amenable to the insertion of an advertisement arises. In a particular embodiment, a user may be playing a game that was stored in the cache, and if there is a pause in the action of the game, the interface may

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[1] *See, e.g.,* Specification, page 4, lines 9-26.
[2] *See, e.g.,* Specification, page 11, lines 5-17; Figure 2.
[3] *See* Specification, page 2, lines 9-15

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insert one or more advertisements.[4]  For example, action may be paused because a user desired the pause at that moment.  There is no way to know when a user may pause a game before the pause occurs.  Even so, when there is a change in the condition of the play of the game one or more advertisements may be inserted and displayed for as long as the game is paused.  When the user resumes play of the game, the advertisements are no longer inserted.  Zigmond does not anticipate because Zigmond does not detect a change in the mode of display that is responsive to an action taken by a user of Zigmond's device.

For example, Zigmond's device inserts advertising and then outputs the video for display.  Referring to the ad insertion device that is shown in Figure 5, an arrow from the lower left of the figure to the right represents programming delivery (i.e., content) coming into the video switch 90.  Advertising may come from an advertisement repository 86 within the device, which is shown above the video switch 90.  The video switch may insert the advertisement into the programming delivery and then output the video for display at 58.  The switching decision unit 88 may control the switch.  Thus, as the programming delivery is streamed to the video switch, the switching decision unit decides when to put the advertisements in the live feed.

In the Office action, the examiner asserts that a delay code, which is embedded in the video programming, functions to delay or pause the programming.  Paper No. 20060424, pages 3-4.  Accordingly, Zigmond teaches detecting a change from one mode of display to another mode of display and displays one or more advertisements.  *Id.*  As is explained above, Zigmond receives video programming to the video switch 90.  Because the delay code is embedded in the video programming that goes to the video switch 90, clearly a resultant pause by the video switch or switching decision unit is independent from a user's action.  In other words, to the extent that Zigmond teaches detecting a change from one mode of display to another mode of display due to a delay code, the user has no control over this switch and is not even aware that it has occurred.  Column 16, lines 31-43.

Because Zigmond does not insert advertisements in response to a user-initiated change in the mode of display such as pausing the play of content, each of the claims is distinguished over Zigmond.  For at least these same reasons, each of the dependent claims rejected under 35 U.S.C. § 103(a) is also distinguished over Zigmond in combination with either Picco or Mendelson.

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[4] *See, e.g.,* Specification, pages 8-11.

The rejection of dependent claim 74, however, should be specifically addressed. Claim 74 was rejected as being unpatentable over Zigmond in view of Official Notice. For at least the reasons below, the examiner's assertion of Official Notice is traversed—the examiner is requested to provide a reference or to produce authority for the contention of being well known.

Claim 74 recites detecting a change from a mode of active play in a game to a mode in which the playing of the game is paused. Zigmond does not explicitly teach content or video programming that is a game. Paper No. 20060424. The examiner's assertion of Official Notice does not cure the deficiency of Zigmond. Specifically, claim 74 does not merely call for content that is a game. Rather, claim 74 indicates that one mode of play is active play of the game whereas another mode is a mode in which playing of the game is paused.

According to the examiner's rejection, Zigmond changes from one mode of display to another mode of display when an embedded delay code is received in the video programming. As is explained above, in Zigmond the user is not even aware of the pause due to the delay code. Thus, hypothetically (because there is no reason to modify Zigmond), a user in Zigmond would be playing a game and then, without warning, the game would stop and an advertisement would be displayed in full screen. Thereafter, and again without warning, the game would start again. The examiner is requested to produce the authority that suggests, teaches, or motivates one skilled in the art to make this modification of Zigmond.

## CONCLUSION

In view of the amendments and remarks herein, the application is in condition for allowance. The examiner's prompt action in accordance therewith is respectfully requested. The commissioner is authorized to charge any additional fees, including extension of time fees, or credit any overpayment to Deposit Account No. 20-1504 (BKA.0005US).

Respectfully submitted,

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